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April 29, 2011

VIA ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Suite TW-A325
Washington, D.C. 20554

**Re: IB Docket No. 11-58;
Comments of Tata Communications (America) Inc.**

Dear Ms. Dortch:

On behalf of Tata Communications (America) Inc. ("Tata"), attached for inclusion in IB Docket No. 11-58 are the Comments of Tata to the Petition for Declaratory Ruling filed by Toronto Asia Tele Access Telecom in the above-captioned docket on February 10, 2011.

These Comments are being filed with the FCC for inclusion in the above-referenced docket via ECFS. Should you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Catherine Wang
Catherine Wang

Enclosure

cc (via email):

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Toronto Asia Tele Access Telecom)	IB Docket No. 11-58
)	
Petition for Declaratory Ruling Regarding)	
Application of Sections 214 and 254 to)	
International Providers of VoIP Peering)	
and Distribution of Private Label Prepaid)	
Calling Cards)	
)	

COMMENTS

Tata Communications (America) Inc. (“Tata”), by its undersigned counsel, hereby submits these brief comments to the above-captioned petition (“Petition”) filed by Toronto Asia Tele Access Telecom (“Petitioner”) on February 10, 2011.¹ For the reasons set forth below, Tata urges the Commission to take no action on the Petition, or dismiss the Petition without prejudice for failure to provide facts and law making a *prima facie* case that a declaratory ruling is warranted.²

¹ Toronto Asia Tele Access Telecom, Inc. Declaratory Ruling Request, DA 11-573, Public Notice, IB Docket No. 11-58 (rel. Mar. 30, 2011) (*Public Notice*).

² Tata is authorized pursuant to Section 214 of the Communications Act to provide international facilities-based and resold telecommunications services and holds certain submarine cable landing licenses. Tata is an indirect wholly-owned subsidiary of Tata Communications Limited (“TCL”) which, together with its subsidiaries, is one of the world’s largest wholesale international voice carriers (carrying 32 billion minutes of international voice traffic a year), operates one of the largest and most advanced global submarine cable networks, maintains connectivity to more than 200 countries across 400 Points of Presence, and operates one of the largest Tier-1 global Internet backbones. Tata Communications Limited is listed on the Bombay Stock Exchange, the National Stock Exchange of India, and its ADRs are listed on the New York Stock Exchange (NYSE: TCL). TCL and its subsidiaries are a part of the greater, global Tata family of companies (the “Tata group”) with extensive global operations in a wide range of industries. Given the long history and extensive global operations of the group, the Tata name is an extremely valuable and fiercely-guarded trademark (Brand Finance, a UK-based consultancy firm, recently valued it at \$ 11.2 billion and ranked it within the top 100 brands in the world).

Petitioner asks the Commission for a declaratory ruling that it is providing its “Private Label Prepaid Calling Cards” and “VoIP Peering Services” lawfully outside of Commission jurisdiction and immune from Commission regulatory requirements.³ The Petition is an attempt to leverage the Commission’s process to gain an advantage (that is, an unwarranted delay) in trademark litigation currently pending in the federal district court of the Western District of Washington at Seattle between Petitioner and Tata Sons Limited.⁴ Petitioner has filed a Motion to Stay the federal court proceedings, arguing that such proceedings should be suspended while the Commission considers the instant Petition. Petitioner’s Motion to Stay further claims that the lawfulness of Petitioner’s services is a “central issue” in the litigation. Tata and Tata Sons Limited disagree, and Tata Sons Limited has filed an Opposition to Petitioner’s Motion to this effect.⁵

The Petition implores the Commission to take up a wide range of regulatory and policy issues -- some well-settled, some already the subject of other open Commission proceedings -- of questionable relevancy to the federal court litigation. However, the Petition fails to provide adequate facts to support this request. In fact, it lacks *any* documentary evidence or a single declaration regarding Petitioner’s purported telecommunications services. Instead, Petitioner has chosen to rely on the unsupported representations of its Counsel. Tata believes that the Petition was filed in an effort to manufacture support for Petitioner’s unnecessary Motion to Stay the litigation for as long as possible. It is clear that the longer Petitioner can forestall a decision in

³ Petitioner also states it provides SMS and web dialing through its websites. *See Public Notice* at 1.

⁴ *Toronto Asia Tele Access Telecom Inc. and Manmohan Sing Thamber v. Tata Sons Limited*, Case No. CV 09-01356 RSM (W.D. Wash. filed Sept. 29, 2009). Tata Sons Limited is the registered owner of the Tata trademark and the principle investment holding company for the Tata group. About 66% of the equity capital of Tata Sons is held by philanthropic trusts that have created national institutions for science and technology, medical research, social studies and the performing arts. The trusts also provide aid and assistance to non-government organizations working in the areas of education, healthcare and livelihoods.

⁵ A copy of Tata Sons Limited’s Opposition is attached at Appendix A.

the federal court -- here, by arguing that proceedings should be suspended while the Commission sorts out the multiple issues invoked by the Petitioner -- the longer the Petitioner can continue to reap profits from its harmful infringement of Tata's trademark and confuse Tata's customers.

The federal court is currently considering Petitioner's Motion to Stay and the parties are still in the discovery process. If the Court denies Petitioner's Motion to Stay, there will be no issue that the Commission need decide in order for the federal court litigation to proceed. Accordingly, on that basis alone, the Commission should dismiss the Petition without prejudice and avoid the significant waste of administrative resources that would be involved in considering the Petition before the Court acts on the pending Motion.

Further, there is no need for a declaratory ruling from the Commission regarding Petitioner's prepaid calling card services. Whether prepaid calling card services are within the Commission's regulatory jurisdiction is not a new or novel issue. The Commission has already issued multiple decisions finding that prepaid calling card providers, including those using IP transport, are regulated by the Commission under *inter alia* Section 214.⁶ Petitioner fails to demonstrate why its prepaid services should be exempt from the Commission's jurisdiction and

⁶ See, e.g., *Regulation of Prepaid Calling Card Services*, WC Docket No. 05-68, Declaratory Ruling and Report and Order, 21 FCC Rcd 7290 (rel. June 30, 2006) (*Prepaid Calling Card Order*) (declaring that even specialized prepaid calling cards - menu driven prepaid calling cards and prepaid calling cards using IP transport - are telecommunications services whose providers are telecommunications carriers subject to regulation under Section 214 and other provisions); *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services*, WC Docket No. 03-133, 20 FCC Rcd. 4826 (rel. Feb. 23, 2005) (finding the addition of advertising in pre-paid calling card services does not convert services from telecommunications to enhanced services); see also, *ADMA Telecom*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 838, 849 (2009) (finding that \$672,541 penalty is warranted because ADMA provided pre-paid calling card services without obtaining authority under Section 214 of the Act and ADMA failed to make required Universal Service Fund contributions, pay other fees and comply with other rules); *Omniatelecom*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 4254, 4258-60 (2009) (finding that Omniatelecom provided pre-paid card services by offering consumers ability to place interstate and international long-distance calls and \$330,000 penalty is warranted because Omniatelecom failed to obtain authority under Section 214 of the Act and make required Universal Service Fund contributions, pay other fees and comply with other rules); *Teleplus, LLC*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 7666, 7667-69 (2009) (finding \$100,000 penalty is warranted because Teleplus failed to obtain authority under Section 214 of the Act before providing international telecommunications service by providing pre-paid calling card services).

established regulation. Petitioner states that it provides “private label” prepaid calling cards and VoIP calling cards⁷ but fails to provide salient facts that distinguish its activities from other prepaid calling card operations subject to Commission regulation. As a further example, Petitioner claims that it previously distributed cards for Global Line and was not itself a service provider, but does not provide any facts or evidence to explain and illustrate this representation.⁸ Petitioner also did not describe any affiliation it may have or have had with Global Line, or the Commission authority Global Line had at the time it provided service, if any. Moreover, the documents produced by Petitioner in the federal court litigation include copies of invoices to U.S. customers and multiple calling cards offering classically regulated telecommunications service in the name “Tata Telecom.” Copies of these documents are attached hereto for the Commission’s reference at Appendices B and C. Also attached for the Commission’s reference at Appendix D is a screenshot of Petitioner’s calling cards in the name “Tata Telecom” and described as “Powered by Tata Telecom Inc.”⁹ As was explained in Tata Sons Limited’s Opposition to Petitioner’s Motion to Stay, if the federal court ever has to address any telecommunications law, the court is fully capable of applying established law to Petitioner’s purported prepaid calling card services.¹⁰

Petitioner also argues that it is necessary for the Commission to tackle all regulatory issues concerning the classification of Petitioner’s IP-based services. Tata disagrees. It is not necessary to define the regulatory classification of each of Petitioner’s services even to satisfy

⁷ See Petition, at 9.

⁸ *Id.* at 9-10.

⁹ See “Tata Telecom” web site, available at <http://www.mygloballine.com/card.php?id=223>. The documents in Appendices B, C and D are also attached as Exhibits 6, 7 and 8 to Tata’s Petition to Deny Petitioner’s Section 214 Application. See *In re Application of Tata Telecom INC to Provide International Facilities-Based and Resold Services to All International Points*, Petition to Deny, File No. ITC-214-20100907-000357 (filed Sep. 25, 2010) (*Petition to Deny*). Petitioner cites Tata’s Petition to Deny Petitioner’s Section 214 Application at p. 5, n.14 of its Petition, but fails to include Tata’s exhibits to the Petition to Deny.

¹⁰ See Appendix A at 9-12.

the stated purpose identified by Petitioner -- to determine whether the Petitioner is providing *any* service unlawfully. Moreover, commencing a sweeping examination of IP classification issues would involve matters that are being broadly addressed in pending proceedings before the Commission.¹¹ The result will be to unnecessarily delay the federal court litigation because of prolonged regulatory deliberations that cover issues and parties that have nothing to do with issues relevant to the litigation -- thus serving Petitioner's purpose to prolong its unlawful use of Tata's trademark and confusion of its customers. The Commission should not attempt to address these issues in the context of this Petition.

¹¹ See, e.g., *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010*, Notice of Proposed Rulemaking, CG Docket Nos. 10-213, 10-145, WT Docket No. 96-198 (rel. March 3, 2011) (determining how to expand disability access requirements to non-interconnected VoIP services and other "electronic messaging" services); *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Board on Universal Service; Lifeline and Link-Up*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, FCC 11-13 (rel. Feb. 9, 2011) (examining whether FCC should classify interconnected VoIP as telecommunications service or information service and, if it adopts the former classification, whether it should forbear from applying any provisions under the Communications Act and this proceeding is also considering issues related to what intercarrier compensation regime should be for VoIP services); *Wireless E911 Location Accuracy Requirements, E911 Requirements for IP-Enabled Service Providers*, Further Notice of Proposed Rulemaking and Notice of Inquiry, PS Docket No. 07-114 & WC Docket No. 05-196, FCC 10-177 (rel. Sep. 23, 2010) (FCC seeks comment on issues relating to VoIP E911 services including whether VoIP services should be subject to automatic location requirements and whether to expand 911 obligations to one-way VoIP services); *Rules and Regulations Implementing the Truth in Caller ID Act of 2009*, WC Docket No. 11-39 (rel. March 9, 2011) (considering rules regarding call spoofing and related issues to spoofing using interconnected VoIP services); *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking, WC Docket Nos. 04-36 & 05-196, FCC 05-116, (rel. June 3, 2005) (tentatively concluding that E911 obligations should apply to one-way VoIP services if a user can combine such services or use such services in immediate succession).

For the reasons stated above, Tata urges the Commission to take no action on the Petition or dismiss the Petition without prejudice for failure to provide facts and law making a *prima facie* case that a declaratory ruling is warranted.

Respectfully submitted,

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Their Attorneys

April 29, 2011

Appendix A

THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TORONTO ASIA TELE ACCESS
TELECOM INC., now known as TATA
TELECOM INC., a company organized
under the laws of Canada, and
MANMOHAN SINGH THAMBER, a
natural person residing in Canada,

Plaintiffs,

v.

TATA SONS LIMITED, a company
organized under the laws of India,

Defendant.

Case No. 09-cv-01356 RSM

**TATA SONS LIMITED'S OPPOSITION
TO PLAINTIFFS' MOTION TO STAY**

ORAL ARGUMENT REQUESTED

I. INTRODUCTION

Toronto Asia Tele Access Telecom Inc.'s and Manmohan Singh Thamber's (collectively, "Plaintiffs") Motion to Stay (the "Motion") asks this Court to take the extraordinary measure of putting all aspects of this *trademark* litigation on hold indefinitely based on the mere possibility that the Federal Communications Commission ("FCC") will issue a decision on Plaintiffs' Petition for a Declaratory Ruling ("Petition") regarding an unnecessary interpretation of *telecommunications law*.¹ For the reasons set forth below, Plaintiffs' Motion to obstruct and delay this litigation should be denied.

First, in order to resolve this trademark lawsuit, it is not necessary for the FCC (or this Court) to apply *any* telecommunications law; thus Plaintiffs' request for a stay pending the mere possibility of an FCC decision is unwarranted. Plaintiffs' Motion is based on the false premise that Tata Sons Limited's ("Tata") use of the TATA mark in the U.S. did not begin until 2008, while Plaintiffs' use of the TATA mark purportedly began in 2006. From this erroneous premise, Plaintiffs argue that the only way Tata can establish that they were the first to use the TATA mark is to prove that Plaintiffs' purported services in 2006 were in violation of telecommunications law (and therefore do not count for purposes of establishing priority to the mark). This argument misconstrues the evidence, which actually establishes that Tata has used its TATA mark in the U.S. in connection with telecommunications services since at least 2004 – two years before the first date Plaintiffs claim to have used any TATA mark in the U.S. *See* Declaration of Farokh Subedar in Opposition to Plaintiffs' Motion to Stay ("Subedar Decl.") at 1, 3, 4-5, 8-22 (¶¶ 2, 8, 12; Ex. A). Thus, it would not matter what the FCC said about Plaintiffs' alleged 2006 use – even if in compliance with FCC regulations, it is still after Tata's first use. Similarly, neither telecommunications law

¹ Plaintiffs' attempt to derail this litigation has thus far fallen on deaf ears with the FCC. To date, the FCC has not responded to Plaintiffs' Petition, nor does it even have to respond. *See* 47 C.F.R. § 1.2. Moreover, courts disfavor the tactic of filing a petition with the FCC for declaratory relief in an attempt to create grounds for a stay. *See Global Crossing Bandwidth, Inc. v. OLS, Inc.*, 2009 WL 763483 at *6 (W.D.N.Y. March 19, 2009) ("Defendants should not be permitted to manufacture a risk of inconsistent rulings by . . . filing a petition with the FCC, and then using that petition to belatedly seek a stay of further proceedings in this Court.").

nor any FCC decision are necessary to resolve Tata's Anticybersquatting Consumer Protection Act ("ACPA") and the Washington Consumer Protection Act ("WCPA") claims – which do not require an evaluation of Plaintiffs' telecommunications services. Accordingly, Tata's rights in the TATA trademark predate and take priority over any rights claimed by Plaintiffs and a delay of this trademark litigation for the mere possibility of an FCC decision on an unnecessary issue of telecommunications law would be improper.

Second, Tata will be severely prejudiced if resolution of this litigation is further delayed. Plaintiffs offer no explanation for waiting seventeen months, while the parties engaged in substantial and costly litigation, before bringing their Motion. Nor do Plaintiffs address the fact that both the relief Tata won in the parties' WIPO arbitration *and* the parties' PTO proceedings are currently on hold ***pending the outcome of this litigation***. A stay here would further increase the irreparable harm to Tata and the public by giving Plaintiffs an indefinite license to infringe Tata's trademarks, deny Tata's right to speedy relief and continue to confuse Tata's customers.

Finally, even if during this trademark dispute the Court were later required to consider telecommunications law, all that may be at issue is whether Plaintiffs' failure to seek FCC authority to provide telecommunications services was unlawful pursuant to established and well defined precedent. This Court is eminently capable of doing so in a straightforward application of law to facts under the model approved by the Ninth Circuit in *CreAgri, Inc. v. USANA Health Sciences, Inc.*, 474 F.3d 626, 630-31 (9th Cir. 2007) (analyzing complex FDA regulations to determine whether the product was a Class I or Class II vitamin and whether it was in compliance with FDA regulations to resolve a trademark priority dispute).

II. PROCEDURAL AND FACTUAL BACKGROUND

Plaintiffs, not Tata, initiated this trademark infringement litigation more than seventeen months ago.² This lawsuit is not a dispute about the application of FCC rules and

² Plaintiffs do not cite a single case permitting the plaintiff to call upon the jurisdiction of a federal court only to then indefinitely stay and delay the litigation because of another forum's "primary jurisdiction." See *Wayne Automation Corp. v. R.A. Pearson Co.*, 782 F. Supp. 516, 518-20 (E.D. Wash. 1991) (denying a stay, noting "that

1 regulations. Rather, it began after the parties' WIPO arbitration panel ordered Plaintiffs to
 2 transfer their infringing domain name www.tata-telecom.com to Tata because Plaintiffs'
 3 registration of the domain name was in bad faith and the domain name was confusingly
 4 similar to Tata's prior and senior use of its TATA trademarks. *See* Declaration of Eric Ball
 5 in Opposition to Plaintiffs' Motion to Stay ("Ball Decl.") at 7, 67, 69-70 (¶ 18; Ex. H at 8,
 6 10-11). But rather than transfer the domain name to Tata, Plaintiffs initiated this lawsuit,
 7 seeking a declaratory judgment from this Court regarding Plaintiffs' purported trademark
 8 rights under the Lanham Act – the trademark statute. (Complaint ("Compl.") [Dkt. No. 1] at
 9 ¶¶ 16-27.) Tata's counterclaims are likewise grounded in trademark law, alleging trademark
 10 infringement, false designation of origin, cyberpiracy, unfair competition, and violation of
 11 the WCPA. (Tata's Answer and Counterclaims ("Counterclaims") [Dkt. No. 9] at ¶¶ 37-72.)

12 Over the past seventeen months, the parties have engaged in extensive written discovery,
 13 mediation, depositions, third party discovery, motion practice, and substantial meet-and-
 14 confers regarding Plaintiffs' failure to comply with their discovery obligations.³ Thus, after
 15 initiating this trademark litigation to avoid an arbitration judgment against it, waiting until
 16 the tail end of discovery, and forcing Tata to incur substantial costs, Plaintiffs seek to further
 17 delay Tata's attempt to stop Plaintiffs' infringement by shifting to yet another forum.
 18 Plaintiffs' game should not succeed.

19 **III. ARGUMENT**

20 Staying a federal case pending the mere possibility of an agency decision – a so-called
 21 exercise of "primary jurisdiction" – is an extraordinary measure that "should seldom be
 22 invoked," save for "rare case[s]." *Alpharma, Inc. v. Pennfield Oil Co.*, 411 F.3d 934, 939
 23 (8th Cir. 2005) (quoting *United States v. McDonnell Douglas Corp.*, 751 F.2d 220, 224 (8th

24 it would not be fair to allow plaintiff to institute this action, agree to cutoff dates, have defendant conduct
 25 extensive discovery and then allow plaintiff to file for reexamination of the patent and stay this action").

26 ³ A supplemental chronology of Plaintiffs' history of failing to comply with their discovery obligations or conduct
 27 this litigation in good faith – including misleading Tata regarding Plaintiffs' participants in the mediation,
 28 discussing deposition dates and document production agreements three days before it demanded a full
 postponement of discovery, and refusing to produce witnesses for deposition – is provided in the Ball Declaration
 submitted herewith.

1 Cir. 1984)); *see also Ricci v. Chicago Mercantile Exch.*, 409 U.S. 289, 320 (1973) (Marshall,
 2 J., dissenting) (“invocation of the [primary jurisdiction] doctrine derogates from the principle
 3 that except in extraordinary situations, every citizen is entitled to call upon the judiciary for
 4 expeditious vindication of his legal claims of right”); *see also Global Crossing Bandwidth,*
 5 *Inc. v. OLS, Inc.*, 2009 WL 763483 at *2 (W.D.N.Y. March 19, 2009) (declining referral to
 6 the FCC in a breach of contract case, noting that “cases in which [primary jurisdiction
 7 referral] is warranted tend to be the exception not the norm”).

8 The scope of the primary jurisdiction doctrine is accordingly “relatively narrow” and
 9 “[a]pplication of the doctrine has been refused when the issue at stake is legal in nature and
 10 lies within the traditional realm of judicial competence.” *Goya Foods, Inc. v. Tropicana*
 11 *Prods., Inc.*, 846 F.2d 848, 851 (2d Cir. 1988). In particular, staying a trademark
 12 infringement action “on a primary jurisdiction rationale is sensible only if the agency is better
 13 equipped to handle the action [W]here, as here, there is a potential infringement
 14 lawsuit, federal courts are particularly well-suited to handle the claims so that parties may
 15 quickly obtain a determination of their rights” *Rhoades v. Avon Prods., Inc.*, 504 F.3d
 16 1151, 1164 (9th Cir. 2007).

17 Given the extraordinary nature of primary jurisdiction and its narrow application, the
 18 threshold inquiry is whether it is clear from the record that the issue sought to be referred to
 19 the agency *must* be resolved to adjudicate the claims asserted in the litigation. *See County of*
 20 *Santa Clara v. Astra USA*, 588 F.3d 1237, 1252 (9th Cir. 2009); *Nat’l Commc’ns Ass’n, Inc.*
 21 *v. American Tel. and Tel. Co.*, 46 F.3d 220, 223-24 (2d Cir. 1995). And even if the issue
 22 needs to be resolved, primary jurisdiction is discretionary, and “[t]he court must . . . balance
 23 the advantages of applying the doctrine against the potential costs resulting from
 24 complications and delay in the administrative proceedings.” *Nat’l Commc’ns Ass’n*, 46 F.3d
 25 at 223-25 (“Agency decisionmaking often takes a long time and the delay imposes enormous
 26 costs on individuals, society, and the legal system.”) (internal quotations and citation
 27 omitted).

Here, Plaintiffs fail to meet their burden of proving that issues of telecommunications law must be addressed to resolve this trademark litigation. Nor have Plaintiffs proven that a possible FCC decision is so imperative that it outweighs the substantial prejudice created further delaying this proceeding, which would prolong Plaintiffs' infringement of Tata's trademark rights and the continued confusion of the public. Plaintiffs' request for an unnecessary and prejudicial stay should therefore be denied.

A. A Determination by the FCC that Plaintiffs' Services are Unlawful Is Unnecessary to Resolve This Trademark Dispute.

1. Tata Has Priority in the TATA Mark Even If the FCC Found that Plaintiffs' 2006 Services Were Lawful.

This Court can decide which party has priority in the TATA mark and fully resolve this *trademark* dispute without ever considering any issue of telecommunications law. Plaintiffs provide no authority for exercising primary jurisdiction in such a case. This alone requires denial of Plaintiffs' stay request. *See Astra USA*, 588 F.3d at 1252 (denying primary jurisdiction referral where "at least some possible disputes could be resolved by a court" without agency determination).

Here, under well-established principles of trademark law, Tata's use of, registrations for and rights in the TATA trademark predate Plaintiffs' purported rights. Specifically, Tata has used the TATA mark in the U.S. for telecommunication services since *at least as early as 2004*. *See* Subedar Decl. at 1, 4, 8-22 (¶¶ 2, 12; Ex. A). Earlier still, Tata offered telecommunications-related goods and services in connection with the TATA mark and owns federally-registered trademarks covering this use with a *first use date at least as early as 2000*. *Id.* at 1, 3, 5-6, 26-35 (¶¶ 2, 9, 14; Exs. C-F). And for purposes of Tata's ACPA claims, the PTO has found Tata's TATA mark to be *distinctive dating back to 1964*. *Id.* at 6, 37 (¶ 15; Ex. G); *see infra* § A.2. Conversely, taking Plaintiffs at their word (since they fail to offer any admissible evidence with their Motion), Plaintiffs' alleged common law use of the TATA TELECOM mark in the U.S. for telecommunications services did not begin *until 2006*. *See* Compl. ¶ 6; Ball Decl. at 7, 56 (¶ 17; Ex. G at ¶ 1). Plaintiffs do not have a

1 trademark registration for the TATA TELECOM mark, and therefore unlike Tata, they have
 2 no presumption of trademark rights in a TATA mark. Accordingly, at best, Plaintiffs' first
 3 use of a TATA mark was two years *after* Tata's use of the TATA mark.

4 In response to Tata's substantial evidence of priority in the TATA trademark, Plaintiffs
 5 contend (erroneously) that either Tata did not use the mark in U.S. commerce before 2006 or
 6 Tata's goods and services are not sufficiently related⁴ to Plaintiffs' services for a trademark
 7 infringement claim. These are classic issues of trademark law, *to which the FCC has no*
 8 *relevance or interest*. Instead, these trademark issues are central to the trademark claims
 9 asserted in this litigation and they should be resolved here. *See Rhoades*, 504 F.3d at 1164
 10 (rejecting primary jurisdiction referral in a trademark case as the Federal Court was
 11 "particularly well-suited to handle" trademark infringement claims). Primary jurisdiction
 12 should not be used to thwart the timely and complete adjudication of a trademark dispute
 13 while hypothetical and unnecessary disputes over telecommunications law are referred to the
 14 FCC. *See Astra USA*, 588 F.3d at 1252.

15 2. A Decision on the Lawfulness of Plaintiffs' Services is Unnecessary to
 16 Resolve Tata's ACPA and WCPA Claims.

17 A decision by the FCC regarding Plaintiffs' services is also unnecessary to the
 18 resolution of Tata's ACPA and WCPA claims. Plaintiffs' lack of compliance with FCC
 19 regulations is irrelevant to an ACPA claim since liability under the ACPA is "without regard
 20 to the goods or services of the parties" 15 U.S.C. § 1125(d)(1)(A). As Plaintiffs
 21 commenced this litigation as an ACPA suit, it is particularly unfair for Plaintiffs to seek to
 22 avoid a determination of that very issue by raising a tangential issue about their compliance
 23 with FCC regulations. *See Astra USA*, 588 F.3d at 1252 (allowing a contract claim to
 24 proceed and finding that "[b]ecause that claim could plausibly be adjudicated without
 25 [agency] expertise, invoking primary jurisdiction is not appropriate at this time.").

26 ⁴ To the extent Plaintiffs claim that Tata's telecommunications-related goods and services are not related enough
 27 to Plaintiffs' telecommunications services to support a trademark infringement claim, this is a trademark issue
 28 that merits adjudication by the Court, irrespective of any FCC determination. *See, e.g., HMH Publ'g Co., Inc. v. Brincat*, 504 F.2d 713 (9th Cir. 1974) (finding Playboy Magazine and automotive products to be related enough goods for trademark infringement purposes.).

1 Similarly, to the extent Plaintiffs' actions, unrelated to their alleged rights in the TATA
 2 TELECOM mark, mislead consumers into thinking that it is the true Tata or is sponsored by
 3 or affiliated with Tata, then Plaintiffs are liable for violation of the WCPA. *Hangman Ridge*
 4 *Training Stables, Inc., et al. v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 780 (Wash. 1986).
 5 Washington courts have a special interest in promptly resolving WCPA claims to protect
 6 consumers in this state and to see the enforcement of the state's laws. *See Dix v. ICT Group,*
 7 *Inc.*, 161 P.3d 1016 (Wash. 2007) (noting the importance of the WCPA in vindicating the
 8 public interest); *see also Pom Wonderful LLC v. Ocean Spray Cranberries, Inc.*, 642 F.
 9 Supp. 2d 1112, 1123 (C.D. Cal. 2009) (declining to stay based on primary jurisdiction,
 10 noting "Plaintiff's claims are also based on state law, which would not necessarily be
 11 resolved in the event of an FDA ruling."). Thus an unnecessary stay should be denied.

12 **B. Tata Will Suffer Undue Prejudice Were Plaintiffs Given Free Reign to**
 13 **Continue Their Infringement Indefinitely Pending the Mere Possibility of an**
 14 **Unnecessary Review by the FCC.**

15 After a WIPO arbitration, motion practice before the PTO and more than seventeen
 16 months of extensive and costly litigation, which Plaintiffs initiated, Plaintiffs seek to further
 17 delay the final resolution of this proceeding and Tata's relief so that they can start a new
 18 proceeding in a fourth forum. Plaintiffs do not explain why they waited so long to seek a
 19 stay. There is no legitimate reason. The only reason, albeit illegitimate, is to stymie Tata's
 20 effort to obtain speedy relief from an infringer. Nevertheless, because of the prejudice
 21 caused by their prolonged delay, Plaintiffs have waived any opportunity to seek a stay. *See,*
 22 *e.g., CSX Transp. Co. v. Novolog Bucks County*, 502 F.3d 247, 253 (3d Cir. 2007) (denying
 23 primary jurisdiction due to the requesting party's delay and finding "primary jurisdiction
 24 arguments can be waived"); *Morsey v. Chevron USA, Inc.*, 779 F. Supp. 150, 153 (D. Kan.
 25 1991) (denying a stay because of delay since "[c]ourts may weigh the timeliness of the
 26 assertion of the defense in making their discretionary decision to invoke the primary
 27 jurisdiction doctrine.").

28 Compounding the prejudice to Tata is the well-recognized delay inherent in agency

1 referrals. Courts are accordingly judicious in their decisions to grant a stay. *APCC Servs.,*
 2 *Inc. v. WorldCom, Inc.*, 305 F. Supp. 2d 1, 13, 20 (D.D.C. 2001) (“The courts should be
 3 reluctant to invoke the doctrine of primary jurisdiction, which often, but not always, results
 4 in added expense and delay to the litigants where the nature of the action deems the
 5 application of the doctrine inappropriate.” (quoting *Mississippi Power & Light Co. v. United*
 6 *Gas Pipeline Co.*, 532 F.2d 412, 418-19 (5th Cir. 1976)); *see also Geraci v. Homestreet*
 7 *Bank*, 203 F. Supp. 2d 1211, 1217 (W.D. Wash. 2002) (denying a stay where, as here, the
 8 plaintiff sought the stay and there was no certainty that the needless delay would conserve
 9 judicial or litigant resources); 2 R. Pierce, Jr., *Administrative Law Treatise* § 14.6 (4th ed.
 10 2002) (describing agency delay in decision-making as “intractable” and “a pervasive
 11 problem”).

12 Moreover, the longer Tata’s justice is delayed, the further memories fade, documents are
 13 misplaced, and witnesses become unavailable. For example, named plaintiff, Mr. Thamber,
 14 the only current employee who worked for Tata Telecom in 2006, repeatedly stated at
 15 deposition that he had little or no knowledge of Tata Telecom’s relevant goods and services,
 16 business partners, contracts, or customers. Ball Decl. at 7, 71-104 (¶ 19, Ex. I *passim*). And
 17 given Plaintiffs’ shell game of naming witnesses as “Tata Telecom Personnel,” only to later
 18 claim they are unable to produce the witnesses, it is likely that after a substantial stay it will
 19 be even *more* difficult to locate witnesses or compel their testimony. *Id.* at 3 (¶ 7).

20 Finally, a stay of this litigation will have ramifications beyond this matter. Any delay
 21 in resolution of a trademark infringement litigation increases the significant and irreparable
 22 harm on the public. *See Vision Sports, Inc. v. Melville Corp.*, 888 F.2d 609, 612 n.3 (9th Cir.
 23 1989). Moreover, the PTO has stayed the parties’ separate trademark proceeding – also
 24 initiated by Plaintiffs, not Tata – pending the final resolution of this matter. Ball Decl. at 7,
 25 109 (¶ 20, Ex. J at 5). While the PTO’s stay is in effect, Tata’s TATA
 26 COMMUNICATIONS mark and the rights afforded under that mark are held in limbo. Tata
 27 should not be forced to wait because Plaintiffs elected to start an unnecessary fourth
 28

proceeding in a fourth forum. *See Rhoades*, 504 F.3d at 1163 (denying a primary jurisdiction referral in a trademark infringement action and finding that a party “is entitled to have the infringement issue resolved promptly so that it may conduct its business affairs in accordance with the court’s determination of its rights” and limit any “irreparable harm.”).

On balance, the substantial prejudice to Tata outweighs any conceivable benefit from a stay of this trademark litigation. *United States Public Interest Res. Group. v. Atlantic Salmon of Maine, LLC*, 339 F.3d 23, 34 (1st Cir. 2003) (weighing “the need for reasonable dispatch” and a potential decade of delay); *see also Nat’l Commc’ns Ass’n, Inc.*, 46 F.3d at 225. Accordingly, the Court should deny Plaintiffs’ Motion.

C. Even if Federal Telecommunications Law Was, or Became, Necessary to Decide in this Trademark Litigation, the Court is Amply Capable of Applying Statutory Analysis and Interpretation of Established Precedent to Determine Whether Plaintiffs are in Violation of the Law.

1. Primary Jurisdiction and a Stay of this Litigation is Improper Because Plaintiffs Failed to Provide Any Evidence of Their Services.

Before Tata or this Court can begin to determine *whether* telecommunications law is even relevant to this litigation, we must first be able to discover *what* services Plaintiffs have purportedly offered since 2006. However, because Plaintiffs have yet to satisfy their discovery obligations, it is not clear what goods and services Plaintiffs offer. Plaintiffs provide no additional clarity in their Motion, which lacks any factual support and does not have a supporting declaration, let alone a single piece of documentary evidence demonstrating *what* goods and services Plaintiffs offer now or at any time in the past. Instead, Plaintiffs rely on mere argument and conjecture by counsel.⁵

With such a sparse record, primary jurisdiction is improper, as there is no basis for concluding that this litigation involves, let alone *necessitates* consideration of

⁵ Absent *factual evidence* establishing that the issue to be referred *must* be resolved in order to adjudicate the claims asserted in the litigation, courts have looked to the parties’ pleadings to determine whether the issue must be resolved. *See, e.g., Cost Mgmt. Servs. Inc. v. Washington Natural Gas Co.*, 99 F.3d 937 (9th Cir. 1996) (finding primary jurisdiction inapplicable where the claims, as pled, could be resolved without agency referral). Tata’s Counterclaims establish that Tata has priority in the TATA mark and therefore its trademark infringement claims can be resolved without any decision regarding the unlawfulness of Plaintiffs’ services. *See, e.g.,* Counterclaims at 16-17 (alleging Tata’s use of the TATA mark in connection with telecommunications services prior to Plaintiffs’ purported use of the mark and asserting a cause of action for trademark infringement).

telecommunications law, or what the scope of any issues may be. *See Astra USA*, 588 F.3d at 1252 (declining primary jurisdiction where the record was “unclear” and at least part of the parties’ claims could be resolved without agency referral). Moreover, Plaintiffs’ failure to provide any factual support for their Motion requires that it be stricken in its entirety. *See* Local Rule CR 7(b); 7(g). At a minimum, Tata respectfully requests that the Court decline to consider Plaintiffs’ counsel’s unsupported and conclusory “factual” representations, given Plaintiffs’ repeated attempts to reverse course and ignore their prior representations in this case (*see* Ball Decl. and Tata Telecom’s Motion to Amend and Withdraw Admissions [Dkt. No. 31]).⁶ “More is required to trigger the doctrine of primary jurisdiction and remove from a district court a matter that Congress has expressly authorized it to hear.” *Nat’l Commc’ns Ass’n*, 46 F.3d at 223-24 (holding that invocation of primary jurisdiction was not warranted where the party had failed to present factual evidence establishing that agency referral was necessary).

2. Courts are Well Versed in Applying Established Precedent to Determine the Lawfulness of a Party’s Services and Can Do So Here.

If it ever becomes necessary for this Court to decide the lawfulness of Plaintiffs’ services, the Court is fully capable of doing so. Plaintiffs attempts to paint telecommunications law as enigmatic, and the FCC as the sole oracle capable of discerning and applying its provisions.⁷ For example, Plaintiffs’ Motion is based on the presumption that a Federal Court is incapable of interpreting the terms “common carrier,”

⁶ Plaintiffs’ prior assertions before this Court and the PTO regarding its services are in direct conflict with the claims in Plaintiffs’ Motion. Plaintiffs have previously stated numerous times that they provide classic telecommunications services in the United States – including services not even addressed in their Motion. *See, e.g.*, Compl. ¶ 6 (“TATA Telecom provides telecommunication services, including wholesale and retail long distance services, international toll free numbers, prepaid calling cards, callshop solutions, phone portal services, and CallbySMS services.”); *see also* Ball Decl. at 7, 56 (¶ 17; Ex. G at ¶ 1) (stating that Tata Telecom “owns common law rights in TATA TELECOM in the United States” for the same telecommunications services listed in its Complaint). Given these contradictions, neither Tata nor the Court can assume that Plaintiffs’ counsel’s representations are accurate without sufficient declarations, documentary evidence and depositions testing the contentions. For all we know, Plaintiffs’ long distance services are no different than the classically regulated services of AT&T or Qwest.

⁷ Plaintiffs’ invocation of *Chevron U.S.A., Inc. v. Natural Res. Defense Council, Inc.*, 467 U.S. 837, 842-43 (1984) as “direct precedent supporting referral” is misguided, as it merely directs courts to defer to agency interpretation of the statute it administers where the intent of Congress is not clear. Here, both the intent of Congress and agency interpretation are clear.

“telecommunications” and “telecommunications services.” (Mot. at 7.) This is simply not the case. Courts regularly interpret these terms and many other more complicated matters in agency regulations as Courts apply law to facts. *See, e.g., AT&T Corp. v. City of Portland*, 216 F.3d 871, 879 (9th Cir. 2000) (applying the Communications Act and FCC precedent, finding providers of cable broadband to be a “telecommunications carrier”); *FTC v. Verity Int’l, Ltd.*, 194 F. Supp. 2d 270, 278 (S.D.N.Y. 2002) (“ACL argues that the Court should defer to the FCC . . . [to determine] whether ACL is a common carrier But resolution of such questions by courts is routine.”).⁸

To apply the law to facts in this case, the Court need only look to the analysis approved by the Ninth Circuit in *CreAgri*. *CreAgri*, 474 F.3d at 630-31 (analyzing complex FDA regulations to determine lawfulness in a trademark infringement suit). That is, it can apply established telecommunications law to Plaintiffs’ services and evaluate their compliance with the law. For example, the Court can determine whether the FCC’s established precedent that pre-paid calling card providers are subject to FCC rules and regulations applies to Plaintiffs’ services. *See ADMA Telecom*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 838, 849 (2009) (finding that pre-paid calling card providers and resellers of a third party’s telecommunications services are subject to FCC regulations because, “The Commission has stated that calling card services are telecommunications services.”).⁹

Contrary then to Plaintiffs’ contentions, this Court does not need to evaluate any novel, complex, or far-reaching telecommunications issue. *See Brown v. MCI WorldCom Network*

⁸ *See also T-Mobile West Corp. v. Crow*, 2009 WL 5128562 at *8 (D. Ariz. Dec. 17, 2009) (finding that a “carrier’s carrier” was both a “common carrier” and provided “telecommunications service”); *Telesaurus VPC, LLC v. Power*, 623 F.3d 998, 1004-05 (9th Cir. 2010) (interpreting FCC precedent, finding a complaint under the Communications Act did not allege sufficient facts to establish the defendant was a common carrier).

⁹ *See also Regulation of Prepaid Calling Card Services*, Declaratory Ruling and Report and Order, 21 F.C.C.R. 7290, 7293 (2006) (finding that “all prepaid calling card providers will not be treated as telecom service providers” and are “subject to all of the applicable requirements of the Communications Act and the Commission’s rules, including requirements to the federal USF and to pay access charges.”); *Omniat Telecom*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 4254, 4258-60 (2009) (finding that Omnat, “a ‘prepaid card’ provider . . . [that] offered consumers the ability to place interstate and international long-distance calls” had violated section 214(a) of the Communications Act by “willfully and repeatedly failing to obtain section 214 authority from the Commission prior to providing international telecommunications service”); *Teleplus, LLC*, Notice of Apparent Liability for Forfeiture, 24 F.C.C.R. 7666, 7667-69 (2009) (likewise finding prepaid calling card providers to be regulated by the FCC).

1 *Servs., Inc.*, 277 F.3d 1166, 1172-73 (9th Cir. 2002) (providing that primary jurisdiction
 2 should only be invoked where the issue that needs to be decided is one of first impression,
 3 particularly complex or far-reaching). Specifically, the Court does not need to decide
 4 whether something Plaintiffs' call "private label pre-paid calling card" services are regulated
 5 by the FCC, and Tata has not sought adjudication of this issue. Instead, the Court need only
 6 evaluate whether Plaintiffs offer pre-paid calling card services, which are unquestionably
 7 regulated by the FCC. Moreover, in applying this established law to the facts – once
 8 Plaintiffs provide actual evidence of what their services are – there is little risk of
 9 inconsistent rulings. *See Nat'l Commc'ns Ass'n*, 46 F.3d at 223-25 (reversing the district
 10 court's exercise of primary jurisdiction and finding no risk of inconsistent rulings where the
 11 court could apply established law to facts); *Global Crossing*, 2009 WL 763483 at *6 (finding
 12 no "substantial danger of inconsistent rulings by [the trial court] and the FCC" as there was
 13 little risk of both the trial court and the FCC issuing a decision unaware of the other's
 14 ruling).

15 In sum, if telecommunications law is ever raised in this litigation, it would not be so
 16 technical or novel that the Court must put a full stop to trademark litigation, which Plaintiffs
 17 initiated and which has been proceeding for more than seventeen months. Nor should an
 18 unnecessary issue of telecommunications law be used to further delay Tata's right to judicial
 19 relief or prolong the public's confusion between the parties' services and trademarks.

20 IV. CONCLUSION

21 For the foregoing reasons, Tata respectfully requests that the Court deny Plaintiffs'
 22 Motion and allow this trademark litigation to proceed on its merits.

1 RESPECTFULLY SUBMITTED this 7th day of March, 2011.

2
3 **FENWICK & WEST LLP**

4
5 By: s/ Kit W. Roth

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16 Attorneys for Defendant Tata Sons Limited

Appendix B



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 T: 1 416-8752186
 F: 1 905 6932896

DSD Group LLC
 2710 Roosevelt rd
 Kenosha (WI) 53143
 F: 1 2626539475

Invoice No. TLKS-050408-105					Date: May 04, 2006	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
500	Tata Telecom World	\$10.00	\$40.00	\$4.00	\$2,000.00	\$3,000.00
500	Tata Telecom Butterfly	\$10.00	35.00	\$3.50	\$1,750.00	\$3,250.00
500	Tata Telecom EU	\$10.00	30.00	\$3.00	\$1,500.00	\$3,500.00
					Amount	\$15,000.00
					Discount	\$5,250.00
					Net Amount	\$9,750.00
Payment Conditions: Payments should be made before					Jun-03-2006	

With Best Compliments

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 4349
 26-14-06

TATA-TELE 000001



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JNS International
 14 Madison ST.
 Somerville MA 02145
 F: 617 623 8175

Invoice No. TJNS-050406-113					Date: Mar.04. 2006	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
500	Tata Telecom World	\$10,00	\$40,00	\$4,00	\$2,000,00	\$3,000,00
500	Tata Telecom Butterfly	\$10,00	35,00	\$3,50	\$1,750,00	\$3,250,00
500	Tata Telecom EU	\$10,00	30,00	\$3,00	\$1,500,00	\$3,500,00
					Amount	\$15,000,00
					Discount	\$5,250,00
Payment Conditions: Payments should be made before Jun-03-2006					Net Amount	\$9,750,00

With Best Compliments

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 4350

06-13-06

TATA-TELE 000002



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 T: 1 416 8752166
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JNS International
 14 Madison ST.
 Somerville MA 02145
 F: 617 623 8175

Invoice No. TJNS-050406-113					Date: Mai.04. 2006	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
500	Tata Telecom World	\$10,00	\$40,00	\$4,00	\$2,000,00	\$3,000,00
500	Tata Telecom Butterfly	\$10,00	35,00	\$3,50	\$1,750,00	\$3,250,00
500	Tata Telecom EU	\$10,00	30,00	\$3,00	\$1,500,00	\$3,500,00
					Amount	\$15,000,00
					Discount	\$5,250,00
Payment Conditions: Payments should be made before Jun-03-2006					Net Amount	\$9,750,00

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 A350

06-13-06

TATA-TELE 000003



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Travel In
 5050 W. McDowell rd.
 Phoenix AZ 85035
 F: 1802 2784598

Invoice No. TTVI-050406-101		Date: Mai.04.2006				
		Currency: USD				
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
500	Tata Telecom World	\$10,00	\$40,00	\$4,00	\$2,000,00	\$3,000,00
500	Tata Telecom Butterfly	\$10,00	35,00	\$3,50	\$1,750,00	\$3,250,00
500	Tata Telecom EU	\$10,00	30,00	\$3,00	\$1,500,00	\$3,500,00
					Amount	\$15,000,00
					Discount	\$5,250,00
					Net Amount	\$9,750,00
Payment Conditions: Payments should be made before					Jun-03-2006	

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 4348

6/29/06

TATA-TELE 000004



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Travel in
 5050 W. McDowell rd.
 Phoenix AZ 85036
 F: 1602 2764598

Invoice No. TTVI-020607-165					Date: Feb 06, 2007	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
600	Tata Telecom Connector	\$10.00	\$40.00	\$4.00	\$2,400.00	\$3,600.00
1000	Tata Telecom Lion Africa	\$10.00	35.00	\$3.50	\$3,500.00	\$6,500.00
					Amount	\$16,000.00
					Discount	\$5,900.00
Payment Conditions: Payments should be made before					Net Amount	\$10,100.00
					Mrz-08-2007	

With Best Compliments

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 6351
 03/20/07

TATA-TELE 000005



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Invoice No. TLKS-020607-168					Date: Feb 06, 2007	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
500	Tata Telecom Connector	\$10.00	\$40.00	\$4.00	\$2,000.00	\$3,000.00
1500	Tata Telecom Lion Africa	\$10.00	35.00	\$3.50	\$5,250.00	\$9,750.00
					Amount	\$20,000.00
					Discount	\$7,250.00
Payment Conditions: Payments should be made before					Net Amount	\$12,750.00
					Mrz-08-2007	

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04-13-07

TATA-TELE 000006



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Invoice No. TJNS-020607-173					Date: Feb.06. 2007	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
1000	Tata Telecom Connector	\$10,00	\$40,00	\$4,00	\$4,000,00	\$6,000,00
500	Tata Telecom Lion Africa	\$10,00	35,00	\$3,50	\$1,750,00	\$3,250,00
					Amount	\$15,000,00
					Discount	\$5,750,00
Payment Conditions: Payments should be made before					Net Amount	\$9,250,00
Mrz-08-2007						

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 6353

04/15/07

TATA-TELE 000007



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Travel In
5050 W. McDowell rd.
Phoenix, AZ 85035
F: 1602 2784598

Invoice No. TTVI-050708-121					Date: May 07, 2008	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
1000	Tata Telecom Water Horse	\$10.00	\$30.00	\$3.00	\$3,000.00	\$7,000.00
1500	Tata Telecom Buddhist	\$10.00	25.00	\$2.50	\$3,750.00	\$11,250.00
					Amount	\$25,000.00
					Discount	\$6,750.00
Payment Conditions: Payments should be made before Jun-06-2008					Net Amount	\$18,250.00

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07/07/08

TATA-TELE 000008



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Invoice No. TLKS-050708-125					Date: Mai.07. 2008	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	Discount USD	Discounted amount USD	Net Amount in USD
1000	Tata Telecom Water Horse	\$10,00	30.00	\$3.00	\$3 000,00	\$7,000,00
300	Tata Telecom Buddist	\$10,00	25.00	\$2.50	\$750,00	\$2,250,00
					Amount	\$13,000,00
					Discount	\$3,750,00
Payment Conditions: Payments should be made before Jun-06-2008					Net Amount	\$9,250,00

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 7366
 07-09-05

TATA-TELE 000009



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JNS International
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 F: 617 623 8175

Invoice No. TJNS-050708-135					Date: Mar 07, 2008	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
1000	Tata Telecom Water Horse	\$10,00	30,00	\$3,00	\$3,000,00	\$7,000,00
500	Tata Telecom Buddhist	\$10,00	25,00	\$2,50	\$1,250,00	\$3,750,00
					Amount	\$15,000,00
					Discount	\$4,250,00
Payment Conditions: Payments should be made before Jun-05-2008					Net Amount	\$10,750,00

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 7367
 06/19/08



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Travel In
5050 W. McDowell rd.
Phoenix, AZ 85035
F: 1602 2784598

Invoice No. TTVI-030509-150					Date: Mrz.05. 2009	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
2500	Tata Telecom 3G	\$10,00	\$30,00	\$3,00	\$7,600,00	\$17,500,00
1000	Tata Telecom Super Mario	\$10,00	25,00	\$2,50	\$2,500,00	\$7,500,00
					Amount	\$35,000,00
					Discount	\$10,000,00
Payment Conditions: Payments should be made before					Apr-04-2009	Net Amount \$25,000,00

With Best Compliments

PAID
8368

04/17/09

TATA-TELE 000011

**TATA Telecom Inc**

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2710 Roosevelt rd
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F: 1 2626539475

Invoice No. TLKS-030509-154					Date: Mrz.05. 2009	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	Discount USD	Discounted amount USD	Net Amount in USD
3000	Tata Telecom 3G	\$10,00	\$30,00	\$3,00	\$9,000,00	\$21,000,00
2500	Tata Telecom Super Mario	\$10,00	25,00	\$2,50	\$6,250,00	\$18,750,00
					Amount	\$55,000,00
					Discount	\$15,250,00
Payment Conditions: Payments should be made before					Apr-04-2009	Net Amount \$39,750,00

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PAID

8369

04-23-09

TATA-TELE 000012



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JNS International
 14 Madison ST
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 F: 617 623 8175

Invoice No: TJNS-030509-158					Date: Mrz.05. 2009	
					Currency:	USD
Quantity	Product	Face Val / USD	Discount in %	- Discount USD	Discounted amount USD	Net Amount in USD
2000	Tata Telecom 3G	\$10,00	\$30,00	\$3,00	\$6,000,00	\$14,000,00
2000	Tata Telecom Super Mario	\$10,00	25,00	\$2,50	\$5,000,00	\$15,000,00
					Amount	\$40,000,00
					Discount	\$11,000,00
Payment Conditions: Payments should be made before					Apr-04-2009	Net Amount \$29,000,00

With Best Compliments

PAID
 8370

03/13/09

TATA-TELE 000013

Appendix C



1. Dial access number: For more access visit www.tataring.com

480 302 8810	206 832 8975	209 390 4982
213 519 3541	415 376 1395	313 347 4131
305 328 8744	773 303 4297	617 206 9162
734 317 3644	732 284 4060	718 371 9901
201 710 7297	214 461 4114	202 591 1608

2. PIN: 3031 3658 9363

3. 011 + Country + Number + # (Example: 011911812233189#)

New call: * * * * * Redial: * * * * * Save PIN: * * * * *

Delete PIN: * * * * * Speed dial: * * * * * Reload: * * * * *

Tata Telecom Inc (CA) takes no responsibility for lost, destroyed or stolen cards & is not refundable. Connection - Administration fee, daily maintenance fee will apply in different stances. All charges will be deducted from gross minutes. Prices can change any time without any prior notice. Additional charges will apply from Public Phones and Mobiles & charges can differ for different countries.

Validity : 60 days after first usage & expires on 30 Dec 2012 Batch No: 10-2-0001
cs-info: 1 818 297 1877 www.tataring.com info@tataring.com



1. Dial access number: For more access visit www.tataring.com

480 302 8810	206 832 8975	209 390 4982
213 519 3541	415 376 1395	313 347 4131
305 328 8744	773 303 4297	617 206 9162
734 317 3644	732 284 4060	718 371 9901
201 710 7297	214 461 4114	202 591 1608

2. PIN: 9727 0636 7497

3. 011 + Country + Number + # (Example: 011911812233189#)

New call: * * * * * Redial: * * * * * Save PIN: * * * * *

Delete PIN: * * * * * Speed dial: * * * * * Reload: * * * * *

Tata Telecom Inc (CA) takes no responsibility for lost, destroyed or stolen cards & is not refundable. Connection - Administration fee, daily maintenance fee will apply in different stances. All charges will be deducted from gross minutes. Prices can change any time without any prior notice. Additional charges will apply from Public Phones and Mobiles & charges can differ for different countries.

Validity : 60 days after first usage & expires on 30 Dec 2012 Batch No: 05-3-0001
cs-info: 1 818 297 1877 www.tataring.com info@tataring.com

Appendix D

SMS Callback Rate	→
Tell a Friend	→
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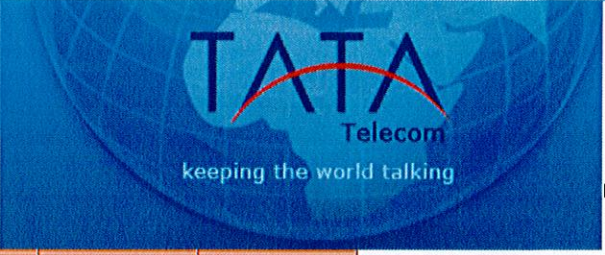
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Please Choose the Country where You are situated.

 USD \$ 20 qty <input type="button" value="Add"/>	 Value qty <input type="button" value="Add"/>	 Value qty <input type="button" value="Add"/>
 Value qty <input type="button" value="Add"/>	 Value qty <input type="button" value="Add"/>	 Value qty <input type="button" value="Add"/>
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SMS Callback Rate	+		Member Login Login : <input type="text"/> Password : <input type="password"/> <input type="button" value="Submit"/> Forget Password Sign Up
Tell a Friend	+		
Call Shop Solutions	+		

Shopping Bag
No Item

Home	Services	Buy Online	Contact Us	E-mail : <input type="text"/>	<input type="button" value="Submit"/>
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